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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,446	08/30/2006	Yasuharu Onishi	NEC 04P302	5323
27667	7590	01/06/2010		
HAYES SOLOWAY P.C. 3450 E. SUNRISE DRIVE, SUITE 140 TUCSON, AZ 85718			EXAMINER ELBIN, JESSE A	
			ART UNIT	PAPER NUMBER
			2614	
			NOTIFICATION DATE	DELIVERY MODE
			01/06/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/598,446	Applicant(s) ONISHI ET AL.	
	Examiner JESSE A. ELBIN	Art Unit 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-20 is/are pending in the application.
- 4a) Of the above claim(s) 4-6 and 13-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 8-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The amendment filed October 30, 2009 has been entered.

Election/Restrictions

2. Applicant's election without traverse of Species III in the reply filed on 7 November 2008 is acknowledged.
3. Newly added claims (13-20) are drawn to Species VI and VIII as enumerated in the Requirement for Restriction/Election mailed September 26, 2008. As claims 13-20 are not drawn to Species III, elected without traverse, claims 13-20 are hereby withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species.
4. Claims 4-6 and 13-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 1-3 and 8-12 rejected under 35 U.S.C. 103(a) as being unpatentable over Christensen (US Patent 5,062,139 ('139)) (already of record) in view of Williams (US Patent 2,284,462 ('462)) (already of record) in view of Sawyer (US Patent Re 20,213 ('213)) (already of record).

Regarding claim 1, Christensen teaches a piezoelectric acoustic element (Fig. 1A) using a piezoelectric element as a vibration source ("the piezo-electric bi-morph driver of the tweeter assembly"; '139 col. 4 lines 52-53), comprising: a hollow casing (e.g. Fig. 3B #16) having at least one opening (Fig. 3B at #40) and a side wall (Fig. 3B #16); a diaphragm provided at the opening of said casing (Fig. 3B #38); said side wall extending in a direction normal to a plane of the opening (*wherein the sidewall is illustrated as extending vertically, and the "plane of the opening" is illustrated as extending horizontally*) and normal to a surface of the diaphragm (e.g. *the surface at Fig. 3B #42 is illustrated as being parallel to the "plane of the opening"*); and a

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piezoelectric element (Fig. 3B #36) that is disposed in said casing (Fig. 3B), and attached at one end of said piezoelectric element in a longitudinal direction (Fig. 3B *illustrates the piezoelectric element #36 being attached at both ends*) to said side wall (#16) of said casing by a support member (Fig. 3B #32) for pivotal movement with respect to said support member about an axis through said support member, and that bends about said axis when a voltage is applied thereto (“the bi-morph disc will bend (flex) during excitation and any vibrations will be propogated [sic] outward of the center through the tweeter diaphragm”; ‘139 col. 5 lines 1-4).

Christensen does not explicitly teach “said piezoelectric element [having] a laminated structure in which conductive layers and piezoelectric material layers are alternately laminated”, nor “said piezoelectric element and said diaphragm [being] joined through a vibration transmitting member”.

In the same field of endeavor, Sawyer teaches a piezoelectric element having a laminated structure (e.g. ‘213 Fig. 4) in which conductive layers (electrodes; e.g. ‘213 Fig. 4 325-26) and piezoelectric material layers (crystal portions; e.g. ‘213 Fig. 4 #17-18) are alternately laminated (e.g. ‘213 Fig. 4) for the benefit of increasing the flexure of the piezoelectric element.

It would have been obvious to one of ordinary skill in the art at the time of the invention to use a multi-layer piezoelectric element as taught by Sawyer in the acoustic device taught by Christensen for the benefit of increasing the flexure of the piezoelectric element.

Neither Christensen nor Williams explicitly teaches “said piezoelectric element and said diaphragm [being] joined through a vibration transmitting member”.

In the same field of endeavor, Williams teaches said piezoelectric element (e.g. ‘462 Fig. 8 #2) and said diaphragm (e.g. ‘462 Fig. 8 #7) are joined through a vibration transmitting member (‘462 Fig. 8 #6) for the benefit of increasing “the ratio of acoustic output to applied voltage” (‘462 p. 2 col. 1 lines 27-28).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the piezoelectric-to-diaphragm connection taught by Christensen by using the transmitting member taught by Williams for the benefit of increasing the ratio of acoustic output to voltage input.

Regarding claim 2, the combination of Christensen, Sawyer, and Williams remains as applied above.

Christensen further teaches both ends of said piezoelectric element (‘139 Fig. 3B #36) in a longitudinal direction (i.e. horizontal as illustrated) are fixed to an inner surface of said side wall (‘139 Fig. 3B #16) of said casing through a respective support member (‘139 Fig. 3B #32).

Regarding claim 3, the combination of Christensen, Sawyer, and Williams remains as applied above.

Williams further teaches said support member being elastic (“small blocks 3, 3 of soft material such as viscoloid or rubber”; ‘462 col. 2 lines 18-19) for the benefits

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suggested by Christensen (“the addition of the bi-morph disc coupling ring gives the engineer more opportunities to control the resonances of the bi-morph discs themselves, which results in a smoother and less ‘peaked’ frequency response”; ‘139 col. 19 lines 23-27).

It would have been obvious to one of ordinary skill in the art at the time of the invention to use a “viscoloid or rubber” support member as taught by Williams as the support ring taught by Christensen for the benefit of creating a smoother and less peaked frequency response.

Regarding claim 8, the combination of Christensen, Sawyer, and Williams remains as applied above.

Williams further teaches said vibration transmitting member (‘462 Fig. 8 #6) being a spring (“ring 6 [is made] of yielding vibration conductive material such as viscoloid or rubber”; ‘462 col. 3 lines 8-10).

Regarding claim 9, the combination of Christensen, Sawyer, and Williams remains as applied above.

Neither Christensen, Sawyer, nor Williams explicitly teaches said diaphragm being formed of a film selected from the group [consisting] of a polyethylene terephthalate film, a polyethersulfone film, a polyester film, and a polypropylene film.

Williams does teach the diaphragm being made “of suitable material such as Celluloid, aluminum, Bakelite, or mica” (col. 3 lines 10-12) wherein ‘Bakelite’ and

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'Celluloid' are obsolete moldable resin materials, which were seldomly used at the time of the invention. Aluminum and mica diaphragms are still used for their weather resistance and specific acoustic properties. As Williams does not limit the diaphragm to an exhaustive list of materials, and states that the diaphragm can be made "of suitable material"; one of ordinary skill in the art at the time of the invention would know to use a more modern "suitable material" as the diaphragm taught by Williams.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the material used by Williams as the diaphragm to use a more modern thermoplastic resin material with the specific acoustic properties required by the design specifications.

Regarding claim 10, the combination of Christensen, Sawyer, and Williams remains as applied above.

Christensen further teaches an acoustic device ('139 Fig. 1A) provided with the piezoelectric acoustic element according to claim 1 (*supra*).

Regarding claim 11, the combination of Christensen, Sawyer, and Williams remains as applied above.

Examiner takes official notice that use of acoustic devices, including those made of piezoelectric acoustic elements, in "a portable terminal device" is well known in the art. While Christensen teaches a coaxial loudspeaker, wherein the piezoelectric element is meant to drive a 'tweeter' using the existing space within a louder

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loudspeaker, one of ordinary skill in the art could easily, with a minimal amount of experimentation, incorporate the coaxial loudspeaker taught by the combination of Christensen and Williams into, e.g. a public address system, which are commonly “portable”.

It would have been obvious to one of ordinary skill in the art at the time of the invention to use the loudspeaker taught by the combination of Christensen, Sawyer, and Williams in a portable terminal as is well known in the art.

Regarding claim 12, the combination of Christensen, Sawyer, and Williams remains as applied above.

Williams further teaches said vibration transmitting member ('462 Fig. 8 #6) being elastic (“ring 6 [is made] of yielding vibration conductive material such as viscoloid or rubber”; ‘462 col. 3 lines 8-10).

Response to Arguments

8. Applicant argues that “the deficiencies of the Williams/Christensen combination are discussed in Amendment C” (p. 6, middle of paragraph 1). Referring to “Amendment C”, Examiner notes that p. 5 paragraph 1 includes arguments relating to amendments made to claim 1 in order to obviate the rejection based on Williams. Examiner notes that the arguments presented were rendered moot by the new ground of rejection (in the Office Action mailed July 31, 2009), which utilizes Christensen as the

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primary reference. The art rejections above rely upon Christensen to teach the specific structure referred to in p. 5, paragraph 1 of "Amendment C".

9. Applicant argues that "affixing a piezoelectric element to the side walls as taught by Christensen would be incompatible with the teachings of Williams" ("Amendment C", p. 5 paragraph 2). Examiner respectfully disagrees, as the art rejection above merely modifies the connection between the piezoelectric element and diaphragm (as taught by Christensen; Fig. 3B) with the "vibration transmitting member" taught by Williams for the benefits taught by Williams. It is unclear how the connection between the piezoelectric element and the side walls (taught by Christensen) is "incompatible" with the connection between the piezoelectric element and the diaphragm (taught by Williams).

10. Examiner maintains that Applicant's arguments presented in "Amendment C" were rendered moot by the new ground of rejection presented in the Office Action mailed July 31, 2009.

11. Applicant argues that "Sawyer still fails to overcome the deficiencies and incompatibilities of the Christensen/Williams combination to achieve or render obvious claim 1" ("Amendment D", page 6, paragraph 1, end). Examiner respectfully disagrees, as the art rejections above do not rely upon Sawyer to overcome any deficiencies of the combination of Christen and Williams beyond those previously addressed in reference to Claim 7.

12. Applicant argues that "New claim 13 is similar to previous claim 1, but adds the feature...that one end of the piezoelectric element is attached to the sidewall of said casing while the other end of the piezoelectric element is floating" ("Amendment D",

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page 6, paragraph 2). While Examiner agrees that claim 13 is similar to claim 1, Examiner notes that the Requirement for Restriction/Election mailed September 26, 2008 enumerated 7 distinct embodiments disclosed in the specification. Applicant elected Species III without traverse in the response filed November 7, 2008. Species III is related to Figure 3 of the instant application, which requires the piezoelectric element be supported at both ends by support members. As such, despite the similarity between claims 1 and 13; claim 13, as well as claims 14-20 dependent thereon, are not encompassed by the election of Species III, and are therefore withdrawn from further consideration as being drawn to a nonelected species.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JESSE A. ELBIN whose telephone number is (571)270-3710. The examiner can normally be reached on Monday through Friday, 9:00am to 6:00pm EDT.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on (571) 272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. A. E./

Examiner, Art Unit 2614

/CURTIS KUNTZ/

Supervisory Patent Examiner, Art Unit 2614